IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

LA.App..No. 101 of 2003 &

CROSS OBJECTION No. 50 OF 2006

LAR.254/1999 of ADDL.SUB COURT, NORTH PARAVUR

.....

APPELLANT: ADDL.2ND RESPONDENT:

KOCHI INTERNATIONAL AIRPORT SOCIETY,
REP. BY ITS MANAGING DIRECTOR, ANGAMALY.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

RESPONDENTS: CLAIMANT & 1ST RESPONDENT:
----

1. BABY, S/O. VARIATH,
POONDY, NAYATHODE.

2. STATE OF KERALA,
REP. BY DISTRICT COLLECTOR, ERNAKULAM,
ERNAKULAM DISTRICT.

BY ADV. SRI.N.ANILKUMAR
GOVT. PLEADER

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 101 OF 2003

&

CROSS OBJECTION NO. 50 OF 2006

Dated this the 3rd day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 254/1999 on the file of Additional Sub Court, North Paravur. Acquisition is for the purpose of International Airport, Nedumbassery.

2. In view of the judgment in L.A.A. No. 1007/2001 and connected cases, the land value has to be sustained at 45%. In view of the judgment in L.A.A. No. 412/2001, land value has to be limited to 45% of the value fixed by the Land Acquisition Officer.

3. In the Cross Objection grievance is with regard to the value for the structures. The claimant relied on Exhibit A1 Commission report in O.S. No. 496/1997 regarding the value of

structures and claimed an amount of Rs. 2,22,566/-. Land Acquisition Officer awarded an amount of Rs. 1,12,800/- that has been enhanced by 30% by the reference court. The contention of the claimant is that since there was no objection regarding the report of the Advocate Commissioner, the same has to be admitted in evidence as such.

4. It is seen that in similar cases in respect of the very same Airport authority, this Court has held as per judgment in L.A.A. No. 295/2002 that, the value fixed by the Advocate Commissioner has to be accepted after deducting the depreciation. In this case, the claimant has deducted 30% by way of depreciation.

It is submitted that for the purpose of cross objection, the value is limited to Rs. 53,147/-. For parity of reasons as stated in L.A.A. No. 295/2002, we allow the cross objection holding that the claimant shall be entitled to an additional amount of Rs. 53,147/- towards value of structures and consequential eligible benefits. The appeal filed by the Airport authority is allowed holding that the land value shall be only to the extent of

45% of the value fixed by the Land Acquisition Officer and the eligible statutory benefits including interest on solatium.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 101 OF 2003
&
CROSS OBJECTION 50 OF 2006

J U D G M E N T

03.10.2007